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06/07/2006

Vincent De Groot

DEGR3003/FJD

9362

23364 7590 06/22/2010

BACON & THOMAS, PLLC

625 SLATERS LANE

FOURTH FLOOR

ALEXANDRIA, VA 22314-1176

EXAMINER

WACHSMAN, HAL D

ART UNIT

PAPER NUMBER

2857

MAIL DATE

DELIVERY MODE

06/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DETAILED ACTION

1. In view of the Appeal Brief filed on 3-8-10, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner, Art Unit 2857

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. **Claims 14-19, 21-25, 27 and 28** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14, lines 5-8, cite "comparing the requested individual identifier of the field device with an identifier stored in the control unit, *for preventing unauthorized tampering* with the field device based on the unauthorized replacement or change of hardware, or software, or even just parts thereof in the field device..". With respect to the above, because there has been an unauthorized replacement or change of hardware, or software, or even just parts thereof in the field device, this shows that tampering has already occurred with the field device so therefore it is not clear in this claim *how unauthorized tampering can be prevented* since it is self evident that the unauthorized tampering has already occurred (i.e. the unauthorized tampering with the field device has not been prevented).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wischinski (WO 01/90829 A3) in view of Havekost et al. (6,774,786).

As per claim 26, Wischinski (Abstract, page 2, lines 9-15) discloses “directing a query by the control unit to the field device in intervals of time, the query requires an answer from the field device”. It appears though that Wischinski does not clearly disclose the remaining step of this claim. However, Havekost et al. (Abstract (block 66), figures 5-7 (see days with times), figure 15 (see “date time” column), col. 4 lines 59-62, col. 10 lines 23-29, col. 14 line 67, col. 15 lines 1-4, 18-21, 38-41) teach “in case no answer comes from the field device, such fact is stored in a database along with a corresponding time stamp”. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Havekost et al. to the invention of Wischinski as specified above because as taught by Havekost et al. (col. 3 lines 19-23) in the previous art there has been few if any display applications for displaying non-process alarms, such as alarms generated by the field devices or controllers indicating some problem with the hardware associated with those devices has occurred.

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6. **Claims 14-19, 21-25, 27 and 28** would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. As a result of further review and the Appellant's arguments presented in the Appeal Brief filed 3-8-10, the applied prior art rejections of claims 14-19, 21-25, 27 and 28, have been withdrawn and a new grounds of rejection has been applied as shown in paragraphs 2 and 3 above. With respect to claim 26 (the feature "in case no answer comes from the field device, such fact is stored in a database along with a corresponding time stamp") on page 8 of the Appeal Brief filed 3-8-10, the Appellants state that "Independent claim 26, we do not see any teaching in Wischinski or Havekost et al, that relates to time stamp feature recited therein." The Examiner respectfully disagrees. In the Havekost et al. reference, figure 15 for example, has a first column "date time" for various types of events (i.e. time stamping). Also, figures 5-7, of the Havekost et al. reference clearly shows the recording of the day of the week and the time for various types of alarm parameters and then figures 12-14 in the "Occurred" column provide the day and time of various occurring events in a display created by an alarm summary control module. In fact, col. 15, line 38, of Havekost et al. explicitly states "The **timestamp shown** for the *alarm...*". Thus, "facts" are clearly being stored in a database along with a corresponding time stamp to be able to provide for display to the appropriate personnel. Col. 4 lines 59-62, of Havekost et al. refers to device alarms

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for *field devices* and then if we turn to col. 10 lines 23-29 of Havekost et al., this section states:

"There can be, of course, many different specific types or kinds of alarms including, for example,**communication alarms indicating that the device has stopped communicating properly or at all....**"

In the instant that the field device has stopped communicating that means "no answer comes from the field device" as cited in claim 26 because the field device has stopped communicating (i.e. thus there is no answer) and as this is an alarm condition the fact of this is stored along with its time stamp as already shown in the various figures of Havekost et al. referred to above.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hal D Wachsman/
Primary Examiner
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June 19, 2010